APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,131	07/11/2001	Wright J. Nec	ROC920000321US1	9531

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EXAMINER
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ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action *Before the Filing of an Appeal Brief*	Application No. 09/903,131	Applicant(s) NEE, WRIGHT J.	
	Examiner Anthony S. Addy	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>26 January 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>None</u>.

   Claim(s) objected to: <u>None</u>.

   Claim(s) rejected: <u>1 and 3-41</u>.

   Claim(s) withdrawn from consideration: <u>None</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

   See Response to Arguments.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

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PRIMARY EXAMINER

Examiner: Thjuan P. Knowlin
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Response to Arguments

1.   Applicant's arguments filed January 26, 2007 have been fully considered but they are not persuasive.

2.   In regards to the claims, Applicant argues that the present invention specifically provides "a database of broadcast sources for a plurality of broadcast locations", whereas Lee, maintains its broadcaster relational database and several other databases remote from the apparatus in an Internet gateway network 30. Applicant states that in contrast to De Bonet, the present invention does not require a file server or a cache, since the present invention is intended work with live, over-the-air broadcast signals, rather than stored and cached broadcast segments which are later reassembled fro subsequent broadcasts, and receives a variety of program formats. Applicant argues that De Bonet does not disclose or suggest the "location of the receiver" in any context. Applicant states that, in De Bonet, the "zip code' entered by the user is used to build a user profile containing information about where a user lives, but is not used to indicate where a user is located at any given instant. Applicant argues that, in De Bonet, the "city name" entered by the user is used to build a user profile containing information about where a user lives, but is not used to indicate where a user is located at any given instant. Applicant further states that De Bonet neither discloses nor suggests the use of voice input for providing a current location of a listener.

3.   In regards to the arguments concerning claim 1, Applicant appears to be arguing the references individually. In response to Applicant's arguments against the references

individually, one cannot show nonobviousness by attacking references individually

where the rejections are based on combinations of references. See *In re Keller*, 642

F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). In regards to claim 1, Applicant argues that the present

invention specifically provides "a database of broadcast sources for a plurality of

broadcast locations", whereas Lee, maintains its broadcaster relational database and

several other databases remote from the apparatus in an Internet gateway network 30.

However, Lee was not used to disclose this limitation. Marrah was used to disclose a

database of broadcast sources for a plurality of broadcast locations (See col. 5 lines 45-

50). Furthermore, although Applicant is arguing Lee and not Marrah, Examiner would

like to bring to his or her attention that claim 1 does not specifically nor clearly state

whether or not the database is located remotely.

4.   In regards to the arguments concerning claims 1 and 35, Applicant once again

appears to be arguing the reference individually. In response to applicant's arguments

against the references individually, one cannot show nonobviousness by attacking

references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800

F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In regards to claims 1 and 35, Applicant

states that in contrast to De Bonet, the present invention does not require a file server

or a cache, since the present invention is intended work with live, over-the-air broadcast

signals, rather than stored and cached broadcast segments which are later

reassembled fro subsequent broadcasts, and receives a variety of program formats.

However, De Bonet was not used to disclose this limitation. Lee was used to disclose a tuner for receiving a plurality of live AM/FM broadcast signals having multiple program formats from a plurality of broadcast sources (See col. 2 lines 21-25, col. 6 lines 39-49, col. 6 lines 53-57, and col. 11 lines 44-50). Furthermore, in the above passages, Lee discloses a processor coupled to the tuner and the memory for selecting a group of live AM/FM broadcast signals from plurality of live AM/FM broadcast signals having multiple program formats based on a predetermined selection criteria.

5.   In regards to the arguments concerning claim 4, Examiner respectfully disagrees. Applicant argues that De Bonet does not disclose or suggest the "location of the receiver" in any context. However, De Bonet does disclose and suggest the location (i.e., zip code, city, etc.) of the receiver (See col. 11 lines 15-22, col. 11-12 lines 65-5, and col. 12 lines 30-37).

6.   In regards to the arguments concerning claims 5, 6, and 38, Examiner respectfully disagrees. Applicant states that, in De Bonet, the "zip code' entered by the user is used to build a user profile containing information about where a user lives, but is not used to indicate where a user is located at any given instant. However, claims 5, 6, and 38 merely state that, "the current location entered by the listener is a zip code". The claims do not recite the zip code being used to indicate where a user is located at any given instant. Therefore, De Bonet does disclose the limitations of claims 5, 6, and 38, wherein the current location entered by the listener is a zip code (See col. 11-12 lines 65-5 and col. 12 lines 30-37).
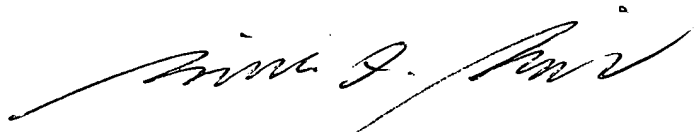
7.   In regards to the arguments concerning claim 7, Examiner respectfully disagrees.

Applicant argues that, in De Bonet, the "city name" entered by the user is used to build

a user profile containing information about where a user lives, but is not used to indicate

where a user is located at any given instant. However, claim 7 merely states that, "the

current location entered by the listener is a city name". The claim does not recite the

city name being sued indicate where a user is located at any given instant. Therefore,

De Bonet does disclose the limitation of claim 7, wherein the current location entered by

the listener is a city name (See col. 11 lines 15-22 and col. 13 lines 9-20).

8.   In regards to the arguments concerning claim 9, Examiner respectfully disagrees.

Applicant further states that De Bonet neither discloses nor suggests the use of voice

input for providing a current location of a listener. However, De Bonet, was not used to

disclose and suggest the use of voice input for providing a current location of a listener.

This limitation was provided as an obvious extension to claim 8.

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